

1 GILBERT R. SEROTA (No. 75305)
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2 HOWARD RICE NEMEROVSKI CANADY
FALK & RABKIN
3 A Professional Corporation
Three Embarcadero Center, 7th Floor
4 San Francisco, California 94111-4024
Telephone: 415/434-1600
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6 Attorneys for Defendants
JOSEPH E. BARATTA AND TBIG
7 FINANCIAL SERVICES, INC.

8 UNITED STATES DISTRICT COURT
9
10 NORTHERN DISTRICT OF CALIFORNIA

11 VIOLETTA ETTARE,

12 Plaintiff,

13 v.

14 JOSEPH E. BARATTA, an individual, TBIG
15 FINANCIAL SERVICES, INC., form of
business unknown, WACHOVIA
16 SECURITIES, LLC, a Delaware Limited
Liability Company, MARK WIELAND, an
17 individual, and DOES 1-25,

18 Defendant.
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Case No. C-07-04429-JW (PVT)

DECLARATION OF JOSEPH E.
BARATTA IN SUPPORT OF
DEFENDANTS' JOINT OPPOSITION
TO PLAINTIFF'S MOTION TO
REMAND AND MOTION FOR LEAVE
TO AMEND REMOVAL NOTICE

Date: Monday, December 3, 2007
Time: 9:00 a.m.
Place: Courtroom 8, 4th Floor
Judge: Hon. James Ware

1 I, JOSEPH E. BARATTA, declare as follows:

2 1. Except where otherwise indicated, I have personal knowledge of the facts
3 stated in this declaration, and as to any facts of which I lack personal knowledge I am
4 informed and believe they are true. If called upon as a witness I could and would testify to
5 the facts stated herein.
6

7 2. I am a citizen of the State of Nevada, resident at 756 Lakeshore Boulevard,
8 Incline Village, Nevada.

9 3. My wife and I bought our home in Nevada in 2000, and although we still
10 own a second home in California, which is currently leased, we have been residents of the
11 State of Nevada and have filed our personal and TBIG taxes in the State of Nevada since at
12 least 2001.
13

14 4. I am registered to vote with the State of Nevada, my daughter attends school
15 full time at the Lake Tahoe School in Incline Village, Nevada, I have been a member of the
16 Board of Trustees for the Lake Tahoe School since 2004 and am currently Chairman of the
17 Finance Committee.
18

19 5. TBIG Financial Services, Inc. ("TBIG") is a corporation incorporated under
20 the laws of the State of Nevada, having its principal place of business at 756 Lakeshore
21 Boulevard, Incline Village, Nevada. TBIG's Corporate Charter and Articles of
22 Incorporation filed with the State of Nevada on October 20, 2000 are attached as Exhibit A,
23 and an excerpt of TBIG's Annual Amendment of its Form ADV dated March 28, 2007 is
24 attached as Exhibit B.

25 6. TBIG had been a California corporation, but ceased to be so on November
26 27, 2000 when it merged into the Nevada corporation. Attached as Exhibit C are TBIG's
27 records printed from the Nevada Secretary of State website showing the merger.
28

1 7. I am the sole officer and director of TBIG. See Exhibits A and C, attached.

2 8. I have reviewed TBIG's 2005 form ADV cited by Dr. Ettare in her Motion
3 to Remand and noticed that it sets forth a 650 cellular phone as TBIG's primary contact
4 information and two 650 telephone and fax numbers on Schedule D, page 1. The 650
5 cellular phone is provided as TBIG's primary number because it works internationally,
6 whereas TBIG's original 877 number did not. But that number is billed to my home in
7 Nevada. The 650 numbers contained on Schedule D, page 1 refer to the location where
8 TBIG kept certain books and records other than its principal place of business. Those
9 numbers are no longer utilized by TBIG.
10

11 9. I was served with Dr. Ettare's complaint on August 3, 2007 at my home in
12 Nevada. At some point soon thereafter, I became aware that TBIG had inadvertently failed
13 to make certain filings required by the Nevada Secretary of State and that TBIG's status as a
14 Nevada corporation had been revoked on November 01, 2002. I immediately took the steps
15 necessary to reinstate TBIG's corporate charter, which I accomplished by August 31, 2007,
16 as shown on Exhibit C.

17 I declare under penalty of perjury under the laws of the United States that the
18 foregoing is true and correct, and that this Declaration was executed in Incline Village,
19 Nevada on October 25, 2007.
20

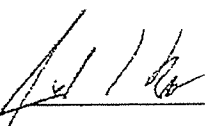
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24 JOSEPH E. BARATTA
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EXHIBIT A

10/30/00

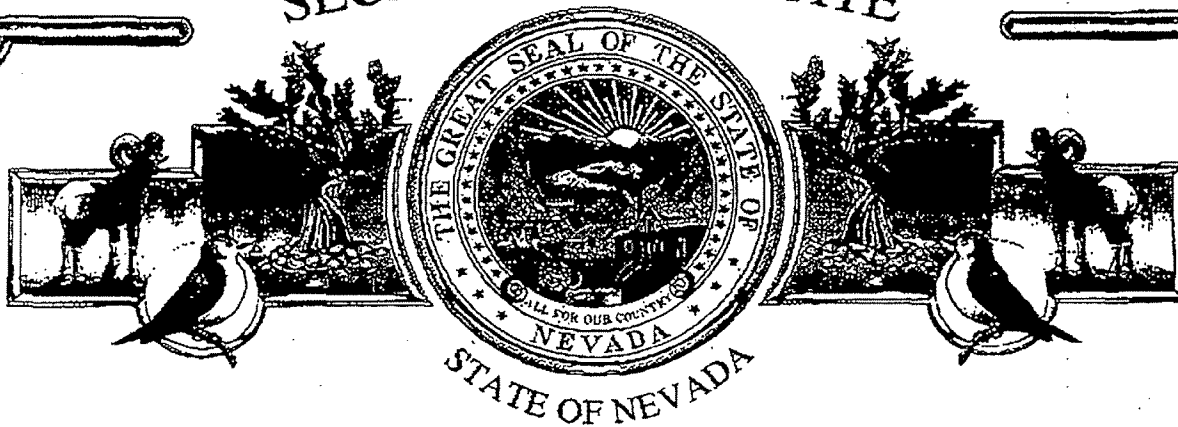
13:09

EKL AGENT/FILING → 408 9931335

NO.343

P02

SECRETARY OF STATE



CORPORATE CHARTER

I, DEAN HELLER, the duly elected and qualified Nevada Secretary of State, do hereby certify that **TBIG FINANCIAL SERVICES, INC.** did on **October 26, 2000** file in this office the original Articles of Incorporation; that said Articles are now on file and of record in the office of the Secretary of State of the State of Nevada, and further, that said Articles contain all the provisions required by the law of said State of Nevada.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of State, at my office, in Carson City, Nevada, on **October 30, 2000**.

Dean Heller

Secretary of State

By *Denise A. Bates*

Certification Clerk

74-1000 Secretary of Black Farm & Colony Assoc.
 1000-1000 on 10-10-10

EXHIBIT B

FORM ADV

UNIFORM APPLICATION FOR INVESTMENT ADVISER REGISTRATION

Primary Business Name: BARATTA INVESTMENT GROUP TBIG FINANCIAL SERVICES	CRD Number: 106404
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Rev. 02/2005

ADV - Annual Amendment, Page 2
3/28/2007 4:14:57 PM

Item 1 Identifying Information (Continued)**F. Principal Office and Place of Business****(1) Address (do not use a P.O. Box):**

Number and Street 1: 756 LAKESHORE DRIVE	Number and Street 2:
City: INCLINE VILLAGE	State: NV Country: USA ZIP+4/Postal Code: 89452

If this address is a private residence, check this box: ☒

List on Section 1.F. of Schedule D any office, other than your principal office and place of business, at which you conduct investment advisory business. If you are applying for registration, or are registered, with one or more state securities authorities, you must list all of your offices in the state or states to which you are applying for registration or with whom you are registered. If you are applying for registration, or are registered only, with the SEC, list the largest five offices in terms of numbers of employees.

(2) Days of week that you normally conduct business at your principal office and place of business:
☒ Monday-Friday ☐ Other:

Normal business hours at this location:
 5:00 AM TO 6:00 PM

(3) Telephone number at this location:

650-823-6163

(4) Facsimile number at this location:

650-823-6163

G. Mailing address, if different from your principal office and place of business address:

Number and Street 1: P.O. BOX 8746	Number and Street 2:
City: INCLINE VILLAGE	State: NV Country: USA ZIP+4/Postal Code: 89452

If this address is a private residence, check this box: ☒**H. If you are a sole proprietor, state your full residence address, if different from your principal office and place of business address in Item 1.F.:**

Number and Street 1:	Number and Street 2:
City:	State: Country: ZIP+4/Postal Code:

EXHIBIT C

TBIG FINANCIAL SERVICES, INC.

Business Entity Information

Status:	Active on 9/6/2007	File Date:	10/26/2000
Type:	Domestic Corporation	Corp Number:	C28859-2000
Qualifying State:	NV	List of Officers Due:	10/31/2008
Managed By:		Expiration Date:	

Resident Agent Information

Name:	CENTERPOINT CORPORATE SERVICES, INC.	Address 1:	865 TAHOE BLVD SUITE 214
Address 2:		City:	INCLINE VILLAGE
State:	NV	Zip Code:	89451
Phone:		Fax:	
Email:		Mailing Address 1:	
Mailing Address 2:		Mailing City:	
Mailing State:		Mailing Zip Code:	

Financial Information

No Par Share Count:	0	Capital Amount:	\$ 10,000.00
Par Share Count:	1,000,000.00	Par Share Value:	\$ 0.01

Officers

☐ Include Inactive Officers

President - JOSEPH E BARATTA

Address 1:	865 TAHOE BLVD	Address 2:	STE 214
City:	INCLINE VILLAGE	State:	NV
Zip Code:	89451	Country:	
Status:	Active	Email:	

Secretary - JOSEPH E BARATTA

Address 1:	865 TAHOE BLVD	Address 2:	STE 214
City:	INCLINE VILLAGE	State:	NV
Zip Code:	89451	Country:	
Status:	Active	Email:	

Treasurer - JOSEPH E BARATTA

Address 1:	865 TAHOE BLVD	Address 2:	STE 214
City:	INCLINE VILLAGE	State:	NV
Zip Code:	89451	Country:	
Status:	Active	Email:	

Director - JOSEPH E BARATTA

Address 1:	865 TAHOE BLVD	Address 2:	STE 214
City:	INCLINE VILLAGE	State:	NV
Zip Code:	89451	Country:	
Status:	Active	Email:	

Actions\Amendments

Action Type:	Articles of Incorporation	# of Pages:	1
Document Number:	C28859-2000-001	Effective Date:	
File Date:	10/26/2000		
(No notes for this action)			
Action Type:	Merger		

Document Number:	C28859-2000-003	# of Pages:	2
File Date:	11/27/2000	Effective Date:	
ARTICLES OF MERGER FILED MERGING TBIG FINANCIAL SERVICES, INC., A (CA)			
CORPORATION NOT QUALIFIED IN NEVADA, INTO THIS CORPORATION. (2)PGS. MMR			
Action Type:	Initial List		
Document Number:	C28859-2000-002	# of Pages:	1
File Date:	02/20/2001	Effective Date:	
List of Officers for 2000 to 2001			
Action Type:	Acceptance of Resident Agent		
Document Number:	20070607607-55	# of Pages:	1
File Date:	08/31/2007	Effective Date:	
(No notes for this action)			
Action Type:	Reinstatement		
Document Number:	20070607608-66	# of Pages:	1
File Date:	08/31/2007	Effective Date:	
(No notes for this action)			
Action Type:	Acceptance of Resident Agent		
Document Number:	20070607611-10	# of Pages:	1
File Date:	08/31/2007	Effective Date:	
ADDITIONAL ARA FILED WITH REI			